

AMENDED IN ASSEMBLY MAY 4, 2015

AMENDED IN ASSEMBLY APRIL 7, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 256

Introduced by Assembly Member Jones-Sawyer

February 9, 2015

An act to amend ~~Section~~ *Sections 135 and 141* of the Penal Code, relating to crimes.

LEGISLATIVE COUNSEL'S DIGEST

AB 256, as amended, Jones-Sawyer. Falsifying evidence.

Existing law makes it a misdemeanor for a person to willfully destroy or conceal any book, paper record, instrument in writing, or other matter or thing knowing that it is about to be produced in evidence in a trial, inquiry, or investigation.

This bill would expand that prohibition to include a digital image or video recording, and to prohibit erasure of those books, papers, records, instruments in writing, digital images, video recordings, or their content.

Existing law makes it a misdemeanor for a person to, or a felony for a peace officer to, knowingly, willfully, and intentionally alter, modify, plant, place, manufacture, conceal, or move any physical matter, with the specific intent that the action will result in a person being charged with a crime or with specific intent that the physical matter will be wrongfully produced as genuine or true at trial or any other specified proceedings.

This bill would expand that prohibition to include any digital image or video recording, and would expand the requisite specific intent to

include the intent that the physical matter, digital image, or video recording will not be available for production at those proceedings. ~~By~~

~~By~~ expanding the definition of ~~a crime~~, *crimes*, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 135 of the Penal Code is amended to*
2 *read:*

3 135. ~~Every~~ A person who, knowing that any book, paper,
4 record, instrument in writing, *digital image, video recording*, or
5 other matter or thing, is about to be produced in evidence upon
6 ~~any~~ a trial, inquiry, or investigation whatever, authorized by law,
7 ~~willfully destroys~~ *destroys, erases*, or conceals the same, with
8 intent thereby to prevent it ~~or its content~~ from being produced, is
9 guilty of a misdemeanor.

10 ~~SECTION 1.~~

11 *SEC. 2. Section 141 of the Penal Code is amended to read:*

12 141. (a) Except as provided in subdivision (b), a person who
13 knowingly, willfully, and intentionally alters, modifies, plants,
14 places, manufactures, conceals, or moves any physical matter,
15 digital image, or video recording, with specific intent that the action
16 will result in a person being charged with a crime or with the
17 specific intent that the physical matter will be wrongfully produced
18 as genuine or true upon a trial, proceeding, or inquiry whatever,
19 is guilty of a misdemeanor.

20 (b) A peace officer who knowingly, willfully, and intentionally
21 alters, modifies, plants, places, manufactures, conceals, or moves
22 any physical matter, digital image, or video recording, with specific
23 intent that the action will result in a person being charged with a
24 crime or with the specific intent that the physical matter, digital
25 image, or video recording will not be available for production, or
26 will be wrongfully produced as genuine or true, upon a trial,

1 proceeding, or inquiry whatever, is guilty of a felony punishable
2 by two, three, or five years in the state prison.

3 (c) This section does not preclude prosecution under both this
4 section and any other law.

5 ~~SEC. 2.~~

6 *SEC. 3.* No reimbursement is required by this act pursuant to
7 Section 6 of Article XIII B of the California Constitution because
8 the only costs that may be incurred by a local agency or school
9 district will be incurred because this act creates a new crime or
10 infraction, eliminates a crime or infraction, or changes the penalty
11 for a crime or infraction, within the meaning of Section 17556 of
12 the Government Code, or changes the definition of a crime within
13 the meaning of Section 6 of Article XIII B of the California
14 Constitution.